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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/467,333 12/20/99 DOBROZSI

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HM12/0119

EXAMINER

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HARRISON, R

ART UNIT PAPER NUMBER

1619

DATE MAILED:

01/19/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>09/467,333</b>	Applicant(s) <b>Dobrozsi et al</b>
	Examiner <b>Robert H. Harrison</b>	Group Art Unit <b>1619</b>

Responsive to communication(s) filed on \_\_\_\_\_.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-20 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

*Moot*  
*OK*  
*Appl.*  
*cancelled*

3. The term "improved" in claims 1, and 2 is a relative term which renders the claim indefinite. The term "improved" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Further specificity and/or clarification is deemed necessary.

Claims 9-18 are indefinite since they recite, "actives" but the claims from which they depend recite, "active" in the singular. Thus they are further lacking in clear antecedent basis as well. Please note that claims 12-18 revert to reciting the singular from (active) for the pharmaceutical active but depend from intervening claims that recite the plural form.

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*Moot*  
*Ampl.*  
*Cancelled*  
*cl. 3*

Claim 4 (and properly dependent claims thereon) is indefinite since it is not further limiting but is in fact broader since it uses the term "about"-0.119V..." but claim 3 requires greater than -0.119V. Thus claim 4 reads on ranges outside those recited in claim 3.

*all  
amended  
to  
the solvent comprises*

8 In claim 8, "said water" lacks clear antecedent basis in claims 5, 4, 3 or 1.

✓ In claim 15, line 1, the expression, "the comprises" is vague and/or it appears something is left out. Clarification is requested.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Gallo-Torres et al. ('543) and Wolf et al. ('965) and Haas ('666) and Arias ('446).

Gallo-Torres et al. ('543) and Wolf et al. ('965) and Haas ('666) and Arias ('446) each disclose pharmaceutical in a (co)solvent aqueous formulation having the claimed reducing agents (aka antioxidants- same meaning). Edible capsules are taught in '543. Since the references reduce to practice (claim) the formulations corresponding to that required in the instant claims, all properties would be inherent. The species anticipates the genus.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert H. Harrison whose telephone number is (703) 308-2422. The examiner can normally be reached on Monday-Thursday from 7:30 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana L. Dudash, can be reached on (703) 308-2328

The fax phone number for most official papers or communications to Technology Center 1600/2900 - Group 1610 - Art Unit 1619 is (703) 308-4556 or (703) 308-4242 or (703) 305-1935. Such papers or communications must conform with the notice published in the Official Gazette, 1096 OG 30; November 15, 1989.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1610 receptionist whose telephone number is (703) 308-1234.

*Robert H. Harrison*  
Robert H. Harrison  
Primary Examiner  
Tech. Center 1600/2900  
Group 1610  
Art Unit 1619

RHHarrison/rhh  
January 16, 2001